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December 3, 2007

The Honorable Sue L. Robinson  
United States District Court  
for the District of Delaware  
844 King Street  
Wilmington, DE 19801

Re: *Callaway Golf Company v. Acushnet Company*  
USDC-D. Del. - C. A. No. 06-91 (SLR)

Dear Judge Robinson:

Callaway Golf writes in response to Acushnet's letter dated November 30, 2007, concerning the admissibility of DX-22, the August 21, 2002 letter from Mr. Rider to Mr. Arturi. This document was between Spalding and Callaway Golf

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making this exhibit irrelevant and more prejudicial than probative. For these reasons, Callaway Golf respectfully requests the Court preclude Acushnet from using this exhibit in any fashion during trial.

## 1. The History of the Spalding-Callaway Golf Correspondence

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<sup>1</sup> All exhibits are attached to this letter.



ATLANTA

AUSTIN

BOSTON

DALLAS

DELAWARE

MUNICH

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

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**REDACTED**

**2. DX-22 is Irrelevant and More Prejudicial Than Probative**

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For these reasons, any effort to reference  
DX-22 should be rejected under F.R.E. 402 and 403.

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**REDACTED**

Acushnet further argues that DX-22 is somehow relevant to willfulness. As this Court noted during the pretrial conference,

Nevertheless, Acushnet's argument regarding willfulness is now moot in light of the Court's ruling to bifurcate willfulness. D.I. 362 at 3.

Finally, Acushnet argues that DX-22 is relevant to bias. Acushnet does not explain its theory,

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The risk of confusion makes this letter highly prejudicial. Consequently, even if the Court does not believe that DX-22 it should exclude this letter as irrelevant and more prejudicial than probative under F.R.E. 402 and 403.

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Finally, given that the willfulness and damages portions of this case have been bifurcated for a later trial, Mr. Arturi and Mr. Rider are not scheduled to testify at trial on any issue. Thus, the potential impact of admitting this single letter, is that two more (lawyer) witnesses will have to testify at the trial.

For these reasons, Callaway Golf respectfully requests the Court preclude Acushnet from using DX-22 at trial.

Respectfully,



Thomas L. Halkowski

TLH:npj

cc: Clerk of Court (via hand delivery)  
Counsel of Record (via hand delivery on local counsel and e-mail to all counsel)